

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

BRADLEY W LAMB
122 SOUTH ST
PELLA IA 50219

EXCEL CORPORATION
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04O-UI-06587-HT
OC: 04/04/04 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The claimant, Bradley Lamb, filed an appeal from a decision dated April 16, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 12, 2004. The claimant participated on his own behalf. The employer, Excel, participated by Human Resources Assistant Adriana Cobos.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Bradley Lamb was employed by Excel from May 5,

2003 until March 29, 2004. He was a full-time production worker. At the time of hire the claimant received a copy of the employee handbook. One of the policies informs employees three days no-call/no-show to work is considered a voluntary quit

Mr. Lamb was talked to by his supervisor on March 18, 2004, about his attendance. Supervisor Willy Crowell told him if he missed any more work he would be fired because he had reached nine points and discharge occurs at ten points. The next day the claimant had car trouble and was no-call/no-show to work, assuming he would be fired. The employer considered him a voluntary quit as of March 29, 2004, after he had failed to return to work.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

Iowa Code Section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(4) provides:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant did not appear for work, nor did he call in, after March 18, 2004. His initial absence was due to transportation problems, which he did not properly report. Although he assumed he was going to be fired, no one on behalf of Excel notified him he was fired. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer LaGrange v. IDJS, (Unpublished, Iowa App. 1984). The claimant is disqualified.

DECISION:

The representative's decision of April 16, 2004, reference 01, is affirmed. Bradley Lamb is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/b